

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Chrome Hearts, Inc.,

Opposer,

v.

Pthalo, Inc. (by assignment from Christiana
Lapetina-Johnson),

Applicant.

Our ref: 61509-0007

Serial No: 7605681
Opposition No. 91153804



05-10-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

**APPLICANT'S REQUEST FOR SUBSTITUTION AND REQUEST FOR
DEFAULT JUDGMENT TO BE ENTERED AGAINST OPPOSER**

Pursuant to Rule 2.114(a) of the Trademark Rules of Practice (37 C.F.R. § 2.114(a)), Applicant Pthalo, Inc. (by assignment from Christiana Lapetina-Johnson) ("Applicant") requests that a default judgment be entered against the Opposer Chrome Hearts, Inc. ("Opposer") for failure to file a brief on the case or to respond to the Trademark Trial and Appeal Board's (the "Board") Order of March 16, 2004.

An Order to Show Cause why the Board should not treat Opposer's failure to file a main brief as a concession of the case was mailed by the Board on March 16, 2004.

The Order provided Opposer with thirty (30) days from the date of mailing within which to respond or indicated that it has lost interest in the case (A copy of the Order is attached hereto).

Therefore, a response was due thirty (30) days after March 16, 2004, i.e., April 16, 2004.

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Opposer did not file a brief or otherwise respond to the Order to Show Cause.

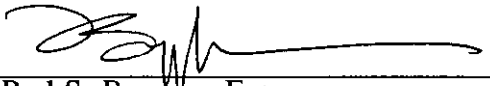
Accordingly, Applicant hereby requests that a default judgment be entered against Opposer, and that Opposition No. 91153804 be dismissed with prejudice.

Applicant encloses herewith a copy of the Assignment Recordation filed on May 6, 2004 in the CROWN OF HEARTS application, Ser. No. 76/305,681. Pursuant to TBMP § 512.01 and in light of the fact that discovery has closed in this proceeding, Applicant requests that Pthalo, Inc. be substituted for Christiana Lapetina-Johnson as defendant/Applicant in the instant Opposition. If this is not possible, Applicant requests that Pthalo, Inc. be joined as a defendant pending recordation of the Assignment by the Trademark Office, at which time Pthalo, Inc. requests that it be substituted for Ms. Lapetina-Johnson as defendant/Applicant.

Dated: May 7, 2004

Respectfully submitted,

JEFFER, MANGELS, BUTLER &
MARMARO LLP

By: 
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COPY

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

dmd

Mailed: March 16, 2004

Opposition No. 91153804

CHROME HEARTS, INC.

v.

LAPETINA-JOHNSON, CHRISTIANA

Denise M. DelGizzi, Paralegal Specialist

It is noted by the Board that opposer's time for filing a brief on the case has expired, and no brief has been filed. Trademark Rule 2.128(a)(3) provides that when a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen days, in which to show cause why the Board should not treat such failure as a concession of the case. The rule further provides that if plaintiff fails to file a response to the order, or files a response indicating that it has lost interest in the case, judgment may be entered against plaintiff.

In view of the above, opposer is allowed until thirty days from the mailing date of this order to show cause why the Board should not treat its failure to file a brief as a concession of the case, failing which a judgment dismissing

the notice of opposition with prejudice will be entered
against opposer.

COPY

Form PTO-1594

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

RECORDATION FORM COVER SHEET

TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE

U.S. Patent and Trademark Office

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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

CHRISTINA LAPETINA-JOHNSON

- ☒ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☐ Corporation-State
☐ Other _____

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: April 19, 2004

2. Name and address of receiving party(ies)

Name: PTHALO, INC.

Internal

Address: _____

Street Address: 110 E. 9TH STREET, SUITE B-835

City: LOS ANGELES State: CA Zip: 90079

- ☐ Individual(s) citizenship _____
☐ Association _____
☐ General Partnership _____
☐ Limited Partnership _____
☒ Corporation-State CALIFORNIA
☐ Other _____

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☒ No
 (Designations must be a separate document from assignment)

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)
76/305681

B. Trademark Registration No.(s)

Additional number(s) attached ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: ROD S. BERMAN, ESQ.

Internal Address: _____

Street Address: JEFFER, MANGELS, BUTLER & MARMARO LLP

1900 AVENUE OF THE STARS, SEVENTH FLOOR

City: LOS ANGELES State: CA Zip: 90067

6. Total number of applications and registrations involved: _____

1

7. Total fee (37 CFR 3.41).....\$ 40.00

- ☐ Enclosed
☒ Authorized to be charged to deposit account

8. Deposit account number:

10-0440

(Attach duplicate copy of this page if paying by deposit account)

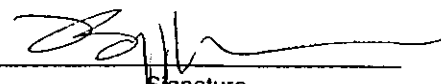
DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

VICTOR K. SAPPHIRE

Name of Person Signing



Signature

MAY 6, 2004

Date

Total number of pages including cover sheet, attachments, and document:

3

Mail documents to be recorded with required cover sheet information to:
 Commissioner of Patent & Trademarks Box Assignments
 Washington, D.C. 20231

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 www.USCourtForms.com